

PTO/SB/24 (10-00)

Approved for use through 09/30/2000. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

## EXPRESS ABANDONMENT UNDER 37 CFR 1.138

Docket Number (Optional)  
5199-139

In re Application of		ANDREW ROBERT MARKS ET AL.
Application Number 10/763,498	Filed	JANUARY 22, 2004
For NOVEL ANTI-ARRHYTHMIC AND HEART FAILURE DRUGS THAT TARGET THE LEAK IN THE RYANODINE RECEPTOR (RYR2)		
Group Art Unit 1614	Examiner	NOT YET ASSIGNED

To:

Assistant Commissioner for Patents  
Washington, DC 20231

I request that the above-identified application be expressly abandoned as of the filing date of this paper unless a box below is checked.

- I hereby petition to expressly abandon the above-identified application to avoid publication. (Petition fee under 37 CFR 1.17(h) included).
- I request that the above-identified application be expressly abandoned as of the filing date accorded the continuing application filed herewith.

NOTE: A paper requesting express abandonment of an application is not effective unless and until an appropriate Office official recognizes the paper. See MPEP 711.01

I am the

applicant.

assignee of record of the entire interest. See 37 CFR 3.71  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).

attorney or agent of record.

attorney or agent acting under 37 CFR 1.34(a) (May act only if the box above, stating that the application is expressly abandoned in favor of a continuing application, is checked.) Attorney or agent registration number if acting under 37 CFR 1.34(a).

(Attorney or agent registration number)

Date

LESLIE GLADSTONE RESTAINO  
REG. NO. 38,893

Typed or printed name

Note: Signatures of all the inventors or assignees of record of the entire interest or their representatives(s) are required. Submit multiple forms if more than one signature is required. See below\*.

Total of \_\_\_\_\_ forms are submitted.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Andrew Robert Marks, *et al.* Group Art Unit: 1614  
Serial No.: 10/763,498 Examiner: Unknown  
Filed: January 22, 2004 Docket No. 5199-139  
For: NOVEL ANTI-ARRYTHMIC AND HEART FAILURE DRUGS  
THAT TARGET THE LEAK IN THE RYANODINE RECEPTOR  
(RYR2)

March 24, 2005

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir/Madam:

**PETITION FOR EXPRESS ABANDONMENT OF APPLICATION  
TO AVOID PUBLICATION UNDER 37 C.F.R. § 1.138(c)**

Applicants hereby petition to abandon the above-identified nonprovisional application to avoid publication pursuant to 37 C.F.R. §1.138(c). Applicants also enclose a Declaration of Express Abandonment in support of this Petition. The above-identified nonprovisional application is projected to publish on June 9, 2005. This Petition and Declaration of Express Abandonment has been submitted in advance of four weeks prior to the expected publication date.

The Commissioner is hereby authorized to charge Deposit Account No. 02-4270 for the petition fee of \$130.00, as set forth under 37 C.F.R. § 1.17(h). Authorization is

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also given to charge any additional fees that may be required or credit any overpayment to our  
Deposit Account 02-4270.

Respectfully submitted,

*Leslie G. Restaino*  
Leslie Gladstone Restaino, Reg. No. 38,893  
Attorney for Applicants  
**BROWN RAYSMAN MILLSTEIN**  
**FELDER & STEINER LLP**  
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PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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## TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

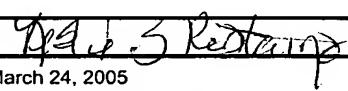
Application Number	10/763,498
Filing Date	January 22, 2004
First Named Inventor	Andrew Robert Marks
Art Unit	1614
Examiner Name	Not yet assigned
Attorney Docket Number	5199-139

### ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input checked="" type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please Identify below): <input type="checkbox"/> Return Receipt Postcard
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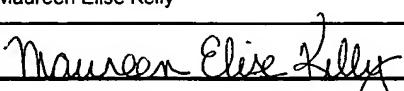
Remarks

### SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Leslie Gladstone Restaino, Registration No. 38,865
Signature	
Date	March 24, 2005

### CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Maureen Elise Kelly
Signature	
Date	March 24, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

# FEE TRANSMITTAL

## For FY 2005

Applicant claims small entity status. See 37 CFR 1.27

**TOTAL AMOUNT OF PAYMENT** (\$ 130.00)

### Complete if Known

Application Number	10/763,498
Filing Date	January 22, 2004
First Named Inventor	Andrew Robert Marks
Examiner Name	Not yet assigned
Art Unit	1614
Attorney Docket No.	5199-139

### METHOD OF PAYMENT (check all that apply)

Check  Credit Card  Money Order  None  Other (please identify): \_\_\_\_\_

Deposit Account Deposit Account Number: 02-4270 Deposit Account Name: Brown Raysman Millstein

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

Charge fee(s) indicated below  Charge fee(s) indicated below, except for the filing fee

Charge any additional fee(s) or underpayments of fee(s)  Credit any overpayments

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

### FEE CALCULATION

#### 1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	_____
Design	200	100	100	50	130	65	_____
Plant	200	100	300	150	160	80	_____
Reissue	300	150	500	250	600	300	_____
Provisional	200	100	0	0	0	0	_____

#### 2. EXCESS CLAIM FEES

##### Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	
				Fee (\$)	Fee (\$)

- 20 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)	Multiple Dependent Claims	
				Fee (\$)	Fee (\$)

- 3 or HP = \_\_\_\_\_ x \_\_\_\_\_ = \_\_\_\_\_

HP = highest number of independent claims paid for, if greater than 3.

#### 3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
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- 100 = \_\_\_\_\_ / 50 = \_\_\_\_\_ (round up to a whole number) x \_\_\_\_\_ = \_\_\_\_\_

#### 4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): \$130.00 Preliminary Amendment \$130.00

### SUBMITTED BY

Signature	<i>Leslie Gladstone Restaino</i>	Registration No. 38,865 (Attorney/Agent)	Telephone 973-775-8930
Name (Print/Type)	Leslie Gladstone Restaino		Date March 24, 2005

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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